YEOH ENG KONG

v.

CHOO KOK YEW & ANOR

HIGH COURT MALAYA, KUALA LUMPUR
LEE SWEE SENG JC
[CIVIL SUIT NO: S2-22-1039-2007]
30 JULY 2010

LAND LAW: *Caveats - Wrongful lodgment - Defendants lodging second caveat on land - Defendants subsequently seeking an extension of second caveat - Reasons put forward for the extension - Whether it had been substantially the same as first caveat - Effect of - Whether prohibition of s. 329 National Land Code applied - National Land Code, s. 329*

LAND LAW: *Administration - Land revenue - Endorsement of court order by Registrar - Whether it had to be accompanied by prescribed fee - Whether court order came within the provisions of Part Eighteen National Land Code - Effect of - National Land Code, s. 293, Part Eighteen*

LAND LAW: *Administration - Appeals and remedies - Alternative remedies available in the National Land Code - Meaning of - Whether a s. 418 remedy is exclusive vis-à-vis the National Land Code - Factors to consider - Effect of - Whether defendants had an option to elect their remedy - National Land Code, ss. 329(2), 418*

LAND LAW: *Administration - Officers - Actions of Registrar - Wrongful removal of caveat - Effect of - Whether court had a discretion to order an extension of the subsequent caveat though filed on a like claim - Test to be applied - Effect of*

The plaintiff (vendor) and defendants (purchaser) had entered into a sale and purchase agreement ('SPA') for certain property ('the land'). Thereafter, the defendants lodged a private caveat on the land ('first caveat'). Subsequently the plaintiff's solicitors terminated the SPA on grounds of frustration. The defendants through their solicitors refuted the termination and challenged it. The plaintiff then filed the current suit seeking, *inter alia,* a declaration that the SPA had been terminated on grounds of frustration. The plaintiff also applied to the Registrar for the removal of the first caveat. The defendants filed an application in court for an extension of

A the first caveat, which was duly granted and the court order allowing the extension was forwarded to the Land Office for endorsement. The first caveat was nevertheless removed by the Registrar. The defendants' solicitors immediately wrote to the Registrar of Land Titles requesting for a reinstatement of the first
B caveat, to no avail. Thus the defendants' solicitors proceeded to lodge another caveat ('second caveat') on substantially the same grounds as disclosed in Form 19B. The second caveat was duly registered and the plaintiff applied to the Registrar to have it removed. The defendants then filed an application by way of
C summons-in-chambers for an extension of the second caveat pending the determination and disposal of this suit. The sole issue that arose for determination before the court was whether the defendants' application to extend the second caveat ought to be allowed.

D

Held (allowing the defendants' application):

(1) The objection taken by the plaintiff in opposing the extension of the second caveat had been that the reasons for the entry of the second caveat had been substantially the same as the
E first caveat and that it had thus been caught by the prohibition of s. 329 National Land Code ('NLC'). Since the removal of the first caveat had not been under one of the three situations envisaged under s. 329(2) of the NLC, the entry of the second caveat had not been caught by the
F prohibition therein. In fact what had happened in this case had been peculiar and had not been envisaged by s. 329 therein. (paras 14 & 18)

(2) The part on the imposition of prescribed fees to accompany
G instruments presented at the Land Office is governed by s. 293 NLC and it only applies to instruments presented for registration in Part Eighteen of the NLC. A court order is not an instrument of dealing in that same Part. (para 20)

H **(3)** Where there are alternative provisions found in the Code for one to utilize, then s. 418 could not be said to be exclusive *vis-à-vis* those provisions. In this case the defendant had chosen to file a second caveat and by so doing had not been caught by the limitations set out in s. 329(2) of the NLC on
I repeated applications to enter subsequent caveats based on the like claims as that on which the former caveat had been based. (para 26)

(4) There are situations where through the non-service of the Registrar's notice of intention to remove a caveat or where the Registrar has failed to endorse the granting of a court order for the extension of a caveat or for other reasons not attributed to the caveator, the caveat is erroneously, wrongfully and unjustly removed wherein such removal would cause grave injustice to the caveator but no serious prejudice to the caveatee, or where a caveat has expired after the expiry of six years and in every such case, the court has a discretion to order an extension of the subsequent caveat though filed on a like claim. The test would be whether the subsequent caveat had been applied for with *bona fide* motives. (para 28)

Case(s) referred to:

Badan Peguam Malaysia v. Louis Edward Van Beurle [2005] 4 CLJ 469 CA ***(refd)***

Land Executive Committee of Federal Territory v. Syarikat Harper Gilfillan Berhad [1980] 1 LNS 150 FC ***(refd)***

Lowther v. Kim [2003] 1 NZLR 327 ***(refd)***

Macon Engineers Sdn Bhd v. Goh Hooi Yin [1976] 1 LNS 67 FC ***(refd)***

Murugappa Chettiar Lakshmanan (Wasi Tunggal Harta Pesaka M.R.L. Murugappa Chettiar, Simati) v. Lee Teck Mook [1995] 2 CLJ 545 CA ***(refd)***

S Lourdenadin v. M Ratnavale Nee Annalakshmi Vattivelu & Anor [1984] 1 CLJ 178; [1984] 2 CLJ (Rep) 199 HC ***(refd)***

Legislation referred to:

National Land Code, ss. 293, 298, 326(1), (1B), (2), (3), 327, 328(1), 329(2), 418(1)

National Land Code (Amendment) Act 1984, s. 95

Land Transfer Act 1952 [NZ], ss. 145, 148

For the applicants/defendant - Prakash Menon (Vanaga Nambiar with him); M/s Isharidah, Ho, Chong & Menon

For the respondent/plaintiff - Tharminder Singh; M/s Izral Partnership

Reported by Sharmini Pillai

JUDGMENT

Lee Swee Seng JC:

Prologue

[1] What should a caveator do if his order of court for extension of his caveat is not registered by the Registrar of Land Titles with the result that his caveat is removed? Should he then utilise the

A provision of s. 418 National Land Code 1965 ('NLC') and appeal to the court or is he entitled to lodge a second caveat based on substantially the same reasons or would that be caught by s. 329(2) NLC? What if the Registrar did register the caveator's second caveat; should the caveatee apply for its removal under
B s. 326(1) NLC or should the caveatee apply to court under s. 418 NLC?

In this case the Registrar did register the second caveat and the caveatee applied under s. 326(1) NLC for its removal which
C resulted in the court now hearing an application filed by the caveator for the extension of his second caveat.

Parties

[2] The plaintiff as vendor had entered into a sale and purchase
D agreement ('SPA') with the defendants as purchasers of a property bearing a postal address of 43, Jalan Setiabakti, Bukit Damansara, 50490, Kuala Lumpur ('the land'). The defendants had paid RM800,000 towards the purchase price of the land and a sum of RM78,000 had also been paid towards stamp duty. On top
E of that the defendants had spent RM605,000 for renovation works carried out on the property. The defendants had also lodged a private caveat (first caveat) after the execution of the SPA and pending its completion.

F **Problem**

[3] It is said that Murphy's law lurks at every corner and looms large to engulf us when we least expect it: everything that could go wrong would go wrong at the most inopportune time! Pending
G the completion of the SPA the owner of the adjacent property commenced a legal action against the plaintiff and the defendants for *inter alia* for negligence/nuisance and obtained an injunction to restrain both the plaintiff and the defendants from dealing with the property.

H **[4]** The plaintiff *vide* their solicitors' letter dated 27 March 2007, put on hold the completion of the SPA pending the disposal of the injunction. Sometime in August 2007, the plaintiff's solicitors sent a letter to the defendants' solicitors terminating the SPA on grounds of frustration.

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[5] Subsequent events are pretty predictable in a problem that has now stretched over three years with no solution in view. The defendants' solicitors *vide* their letter of 17 August 2007 refuted the termination and indeed challenged the termination. The plaintiff proceeded to file the current suit seeking *inter alia* a declaration that the SPA has been terminated on the grounds of frustration. The defendants as expected filed their defence and also a counter-claim for specific performance of the SPA on the grounds that the defendants had at all material times been ready, willing and able to complete the purchase.

[6] The plaintiff turned its barrel at the first caveat lodged by the defendants and fired its first salvo by applying to the Registrar for the removal of the defendants' caveat and a notice under Form 19C was sent to the defendants.

[7] The defendants as expected filed an application in court for the extension of the first caveat pending disposal of the application. Prior to the expiry of the notice under Form 19C, the defendants forwarded the order of court granted on 30 June 2009 for the extension of the caveat which was accepted by the Land Office on 3 July 2009. However the first caveat was removed by the Registrar on 8 July 2009 unbeknown to the defendants until they did a search on the register document of title on 4 August 2009 to confirm the endorsement of the court order! Strange but true!

[8] The defendants' solicitors immediately wrote to the Registrar of Land Titles to register the defendants' complaint and requested for a reinstatement of the first caveat. On 5 August 2009 the defendants' solicitors received a reply from the Registrar that they were unable to process the court order without any reason given.

[9] Subsequently on 26 August 2009 the defendants' solicitors stated that on the advice of an officer from the Land Office the defendants proceeded to lodge another caveat, the second caveat, on substantially the same grounds as disclosed in the Form 19B filed:

a. the defendants had entered a caveat to protect their rights having paid a deposit (paras. a & b);

b. the vendor had applied for that caveat to be removed (para. c);

A c. the Land Office had removed that caveat despite an order extending the same (para. d); and

d. upon discussions with the Land Office, the defendants were advised to lodge a new caveat (para. e).

B **[10]** The second caveat was duly registered and the plaintiff applied again to the Registrar for the caveat to be removed and as events unfolded, a Form 19C Notice was duly served on the defendants caveators under s. 326 NLC.

C **[11]** This triggered another application by way of a summons-in-chambers for an extension of the second caveat pending the determination and disposal of this pending suit.

Prayer

D **[12]** The prayer under s. 326(2) NLC is for an extension of the second caveat and for the second caveat to remain on the land until the disposal of the suit filed herein.

[13] The whole of s. 326 NLC shall now be reproduced for us E to appreciate the context in which this application was made under s. 326(2) NLC:

> **326 Removal of private caveats by Registrar**
>
> F (1) Any person or body whose land or interest is bound by a private caveat may at any time apply in Form 19H to the Registrar for its removal, and such application shall be accompanied by the prescribed fee.
>
> (1A) On receiving any application for removal under this section, G the Registrar shall:
>
> (a) serve upon the person or body at whose instance the caveat was entered a notice of intended removal in Form 19C; and
>
> (b) made an endorsement on the register document of title that H the notice in Form 19C has been served on the person or body at whose instance the caveat was entered and of the date of such service, and shall sign and seal the endorsement.

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(1B) In the case in which a notice of intended removal in Form 19C has been served under subsection (1A), the caveat shall lapse and be of no effect at the expiry of two months specified in the notice unless before the expiry of that period the Registrar shall have been served with an order if the Court extending the time provided in the said notice.

(2) The Court may, on the application of any person or body on whom such a notice has been served under subsection (1A) (and acting, if circumstances so require, *ex-parte*), from time to time extend the said period of two months; and the Registrar, on being duly served with an order of the Court under this subsection, shall make an endorsement on the register document of title of the date of service on him of the order and of the period of the extension, and shall sign and seal the endorsement.

(3) The Registrar shall remove any caveat pursuant to this section by cancelling the entry thereof on the register document of title, and noting there on the reason for the cancellation and the date thereof.

(4) Every cancellation under subsection (3) shall be signed and sealed

Principles

[14] The objection taken by the plaintiff in opposing the extension of the second caveat is that the reasons for entry of the second caveat are substantially the same as the first caveat and thus is caught by the prohibition of s. 329(2) NLC in that the second caveat was based on the like claim as that on which the first caveat was based, For completeness s. 329 NLC is set out below:

Compensation for wrongful caveats, and limitation on repeated applications

(1)

(2) Where the Court has ordered the removal of any private caveat under section 327, or has refused an application under subsection (2) of section 326 for an extension of time with respect to any such caveat, [or where the Registrar has removed any caveat pursuant to subsection (3) of section 326,] the Registrar shall not entertain any application for the entry of a further caveat in respect of the land or interest in question if it is based on the like claim as that on which the former one wad based.

[15] The square bracketed part was added by the National Land Code (Amendment) Act 1984 (Act A587) s. 95 which came into force on 25 March 1985 (see P.U.(B) 145 of 1985.

[16] The relevant question to ask would be whether the entry of the second caveat is caught by one of the three situations envisaged in s. 329(2)? The first situation is a removal of a caveat under s. 327 as ordered by the court and this is clearly not the case. The second situation is where the court has refused an application under s. 326(2) for an extension of time with respect to the first caveat and again this is not the case here as the court had actually allowed the extension of time on 30 June 2009.

[17] Is it then the third situation envisaged in that the Registrar has removed the caveat under s. 326(3)? Here the Court order for extension of time had been filed with the Land Office before the caveat was mysteriously removed. Clearly it does not fall under the third situation which is a situation where the Registrar has removed the caveat under s. 326(3) NLC pursuant to s. 326(2) NLC after the expiry of two months from date of service of Form 19C Notice on the caveator.

[18] Since the removal of the first caveat is not under one of the three situations envisaged under s. 329(2) NLC, the entry of the second caveat is therefore not caught by the prohibition therein. In fact, what happened here with respect to the non-registration of the court under of 30 June 2009 is an anomaly and is a particular and peculiar situation not envisaged by s. 329(2) NLC. In less than a perfect world such a thing does happen. Perhaps that is the reason why s. 329 marginal note reads as "... **limitation** on repeated applications," (emphasis added) and not "... **prohibition** on repeated application," (emphasis added) which gives room for one to argue that the three situations referred to in s. 329(2) are not exhaustive.

[19] The use of marginal note in assisting in interpretation of a statute has received endorsement by our courts in a number of cases. In *Badan Peguam Malaysia v. Louis Edward Van Beurle* [2005] 4 CLJ 469 at p. 515, his lordship James Foong JCA (as he then was) observed:

There is no doubt that going by current case law, the modern approach is to accept marginal notes as an aid to statutory interpretation when, previously, it was a taboo to do so. This is clearly shown in the case of *Chai Siew Yin v. Leong Wee Shing* [2004] 1 CLJ 752 where Gopal Sri Ram J in the Court of Appeal announced that: we can use it to interpret the section ... it is true that at one time it was taboo to use a marginal note as an aid when interpreting a statutory provision. If you look at the old cases; even those decided in the 1960's; you will see a refusal by judges to rely on the marginal note as an aid to interpretation ... But the modem approach is far more liberal. It is exemplified by what Augustine Paul JC said in *Ganesan a/l Singaram v. Setiausaha Suruhanjaya Pasukan Polis & 3 Ors* [1998] 1 AMR 126; [1998] 1 MLJ 240 which I consider to be the correct statement of the law: A marginal note to a section is part of the statute. It may be considered in construing the section or any other provision of the statue, provided due account is taken of the fact that its function is merely to serve as a brief guide to the contents of the section ... Further guide on the use of marginal note as an assistance to statutory interpretation is found in the statement by Lord Upjohn in *Stephens v. Cuckfield Rural District Council* [1960] 2 QB 373: While the marginal note to a section cannot control the language used in the section, it is at least permissible to approach a consideration of its general purpose and the mischief at which it is aimed with the note in mind.

[20] It was contended by the plaintiff that the rejection of the registration of the court order for extension of the caveat is because of non-payment of the registration fee. Section 326(1) NLC makes specific reference to "prescribed fee" for the filing of Form 19H, whereas s. 326(1B) NLC does not make any reference to "prescribed fee" that must accompany the filing of an order of court extending the caveat. Indeed the part on the imposition of prescribed fees to accompany instruments presented at the Land Office is governed by s. 293 NLC and it only applies to instruments presented for registration in Part Eighteen of the NLC. A court order is not an instrument of dealing in Part Eighteen of the NLC. The defendants' solicitors could perhaps be excused for not accompanying the filing of the court order with a RM50 prescribed fee.

[21] In any event, if that is really the reason, the Land Office should have suspended the registration of the court order and state the reason for the suspension and give 14 days for the

A defendants to pay the prescribed fee as there are provision on the this in s. 298 NLC (through not directly relevant to the filing of a court order)

[22] Counsel for the plaintiff/caveatee contended that the error of
B the Land Office, however it is interpreted, is an error of non-registration of a court order which resulted in the first caveat being removed and so the proper recourse and remedy should be by way of an appeal to court order s. 418 NLC. Section 418(1) provides:

C

(1) Any person or body aggrieved by any decision under this Act of the State Director, the Registrar or any Land Administrator may, at any time within the period of three months beginning with the date on which it was communicated to him, appeal there from to the court.

D

(2) Any such appeal shall be made in accordance with the provisions of any written law for the time being in force relating to civil procedure; and the court shall make such order thereon as it considers just.

E

(3) In this section "decision" includes any act, omission, refusal, direction or order.

[23] However, the word used is 'may' and so it is not a
F mandatory or exclusive provision if there is a faster and more expeditious means of correcting the error. There is nothing wrong or improper in the defendants filing a second caveat on a like claim for so long as the limitations under s. 329(2) NLC does not apply.

G **[24]** As the Registrar had accepted and duly endorsed the entry of the second caveat, one would presume that the Registrar would have addressed his mind on whether the second caveat is filed based on a like claim. The plaintiff himself did not utilise the provision of s. 418 NLC to challenge the decision of the Registrar
H in registering the second caveat which according to the plaintiff ought to have been rejected by the Registrar as it was based on a like claim. Rightly so because there is a faster and more expeditious means of seeking to remove the second caveat by way of s. 326 NLC.

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[25] Counsel for the plaintiff/caveatee submitted that to do so would be untenable as the Federal Court in *Land Executive Committee of Federal Territory v. Syarikat Harper Gilfillan Berhad* [1980] 1 LNS 150; [1981] 1 MLJ 234 at p. 237 held:

> We now ask ourselves, what is there in the National Land Code which bars declaratory relief. Section 418 of the Code must now be looked at. If on a proper reading of it leads one to the conclusion that it is the intention of Parliament to create the right absolutely and independently of any specific form of remedy, the respondents' is well maintained. If on the other hand the proper interpretation is that the right and remedy are uno flatu, that they are not mutually exclusive, that they are part and parcel of the remedy, then the action is misconceived.
>
> Reading section 418 of the Code, we are satisfied that the latter is the correct interpretation. Having regard to the special provision for limiting the time within which to enforce the right, the indications are that Parliament by using plain and unambiguous language intended the right to be exclusive of any other mode of enforcing it.

[26] It must be noted that the above principle of law on the exclusivity of the remedy under s. 418 NLC was enunciated in the context of the relief of a declaration. In any event the Federal Court proceeded to hear the application on its merits. Here the defendant/caveator is not seeking a declaratory relief from the court. It is of course open to the plaintiff/caveatee to seek a remedy under s. 418 NLC but they had chosen a speedier and more expeditious procedure provided for under s. 326 NLC and rightly so. What is sauce for the goose is sauce for the gander! I hold that where there are alternative provisions found in the Code for one to utilise then s. 418 cannot be said to be exclusive *vis-a-vis* those provisions. Here the defendant had chosen to file a second caveat and I have found that by so doing the defendants/caveators are not caught by the limitations set out in s. 329(2) NLC on repeated applications to enter subsequent caveats based on the like claim as that on which the former caveat was based.

[27] In *S Lourdenadin v. M Ratnavale Nee Annalakshmi Vattivelu & Anor* [1984] 1 CLJ 178; [1984] 2 CLJ (Rep) 199 the caveator's first caveat had been removed by the Registrar of Titles but the caveator had no actual knowledge of the notice of intended removal of the caveat which had been gazetted after attempts to serve the notice on the caveator was unsuccessful. It was held at p. 201 that:

A I therefore hold that the second caveat entered by the plaintiff in respect of the land is not a renewal, revival or continuance of the first caveat by the same caveator on the same grounds as the first caveat and the plaintiff is therefore not precluded in law from filing the second caveat on differing grounds. The second reason given by counsel for the plaintiff for the non-application of the above-
B mentioned proposition of law is that the plaintiff had not been personally served with Form 19C, ie, the notice of intended removal of the caveat at the expiry of one month from the date of service of the notice, and consequently had no knowledge of it under section 326(2) for extension of time. ... the plaintiff did not
C have knowledge of the intended removal so as to enable her to exercise her right to apply to court for extension of the first caveat unlike the facts in *Arul Chandran v. Rajaratnam* [1979] 2 MLJ. 172 case where the caveator apparently ignored the "Collector's" notice to remove the caveat in Form 19C when
D recourse could have been had to the court for extension of the caveat and the caveat accordingly was removed. As there has been no hearing *inter partes* (and no judgment on the merits) as to whether or not the first caveat should be removed or extended through no fault of the plaintiff and as I am of the view that the plaintiff's case falls outside the ambit of *Damodaran v. Vasudeva*
E [1974] 1 MLJ 128 case and *Arul Chandran*'s case, I do not think that the plaintiff is precluded from entering the second caveat.

[28] Granted the above decision was made before the square bracketed amendment to s. 329(2) NLC referred to earlier, but the
F point to be noted is this: there are situations and hopefully these be few and far apart, where through non-service of the Registrar's notice of intention to remove the caveat, or where the Registrar has failed to endorse the granting of a court order for the extension of the caveat or for other causes not attributed to the
G caveator, the caveat is erroneously, wrongfully or unjustifiably removed or which removal would cause grave injustice to the caveator but no serious prejudice to the caveatee, or where the caveat has expired after six years from the time from which it took effect under s. 328(1) NLC then and in every such case the
H court has a discretion to order an extension of the subsequent caveat though filed based on like claim. The test is whether the subsequent caveat has been applied for *bona fide* and not a case where the application for a subsequent caveat is made *mala fide* and an abuse of the system of caveat application or where it is
I made in disregard of a court order as in where the court has

refused an extension of time for the caveat under s. 326(2) NLC or even in defiance of it as in where the court has made an order for the removal of the caveat under s. 327 NLC.

[29] Perhaps we can appreciate the position under our NLC better by making a comparison with s. 148 of the Land Transfer Act 1952 of New Zealand;

> **148 No second caveat may be entered**
>
> When any caveat in either of the forms hereinbefore provided has lapsed, it shall not be lawful for the Registrar to receive any second caveat affecting the same land, estate, or interest by the same person, or in the same right and for the same cause, except by order of the High Court.

[30] My attention was drawn by the defendants' counsel to the *Lowther v. Kim* [2003] 1 NZLR 327 Lowther had brought an action against Kim to enforce an agreement for purchase of a property and had lodged a caveat against the property in question. The first caveat lapsed through failure to make the necessary application to sustain it under s. 145 of the Land Transfer Act 1952, as a result of an oversight by the solicitors acting for Lowther. The headnotes read:

> An order under s. 148 of the Land Transfer Act 1952 was not restricted to exceptional circumstances. The Court had an unfettered discretion under s. 148 to grant leave to lodge a second caveat, but an application was to be scrutinised carefully and the Court would generally have regard to;
>
> (a) whether there was a reasonably arguable case made by the applicant to support the claimed interest in the land;
>
> (b) any explanation for failure to exercise the caveator's rights under s. 145 of the Land Transfer Act 1952; and
>
> (c) whether unavoidable prejudice would be suffered by those who have acted in reliance on the register and in the belief that the caveator was not pursuing the claim.
>
> While the solicitors had been at fault for allowing the first caveat to lapse, this fault should not be visited on Mr Lowther since there was no evidence that Mr Lowther ever intended to do anything than enforce the agreement. There was no evidence that the Kims would be prejudiced by an order allowing a second

A caveat to be lodged. An order would therefore be made under s. 148 of the Land Transfer Act 1952 authorising the Registrar of Land to receive the second caveat on behalf of the applicant affecting the land of the respondents.

B **[31]** Whilst the words "except by order of the High Court" are missing from our s. 329(2) NLC the applicable principles are the same especially where the prohibition or limitation of lodging a second and subsequent caveats is not applicable.

[32] Indeed this application by the defendants/caveators for C extension of the second caveat might well be an application for leave to lodge a second caveat and/or for an order that the second caveat be deemed to be validly filed for so long as the limitations in s. 329(2) NLC do not apply with respect to the reasons for entering a second caveat. Perhaps the legislator should D consider amending the square bracketed words in s. 329(2) with the proviso "except with leave of court" to ameliorate the harshness of inadvertent oversight on the part of the caveator or the Registrar as the case may be.

E **Pronouncement**

[33] Having held that the entry of the second caveat is not caught by the limitations imposed by s. 329(2) NLC I made an order that the second caveat be extended until the disposal of the suit.

F

[34] There is no need for the court to consider all over again the three questions of 1. Does the applicant have a caveatable interest, 2. Whether there is a serious question to be tried and 3. Whether the balance of convenience lie in favour of the caveator. G These had been decided by the court that granted the first extension of caveat but alas for some strange unfolding of events the order was not registered by the Registrar with the harsh consequence of the first caveat being removed. If authorities are needed one can refer to: *Murugappa Chettiar Lakshmanan (Wasi* H *Tunggal Harta Pesaka M.R.L Murugappa Chettiar, Simati) v. Lee Teck Mook* [1995] 2 CLJ 545, *Macon Engineers Sdn Bhd v. Goh Hooi Yin* [1976] 1 LNS 67.

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Postscript

[35] I was told by the plaintiff's counsel that in the meanwhile the plaintiff's chargee had proceeded with an order for sale of the land as the plaintiff had defaulted on his loan. Perhaps the chargee bank would apply for removal of the caveat lodged by the defendants/purchasers. We shall cross the bridge when it comes for tomorrow will be anxious for itself.